IRW

Docket No. 3815.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

APPLICANT : JOE P. SCHELL

SERIAL NO. : 10/773,421 ART UNIT : 3677

FILED : 02/09/04 EXAMINER : JACK W. LAVINDER

FOR : NECKTIE HOLDER

RESPONSE TO OFFICE ACTION UNDER 37 C.F.R. § 1.111

THE HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS

WASHINGTON, D.C. 20231

Sir:

In an Office action, dated April 4, 2005, claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by Johnson (U.S. Pat. No. 2,592,155). A careful review of Johnson, however, indicates that it does not provide a legitimate basis for rejection of claims 1 and 2. Accordingly, the Examiner is asked to reconsider claims 1 and 2 in light of the following remarks.

Claims 1 and 2 are directed toward an uncomplicated holder for a necktie. Among other things, the holder calls for a flexible link that is releasably connected to the opposed ends of a crossbar. The releasable connection permits the flexible link to removed from the crossbar from

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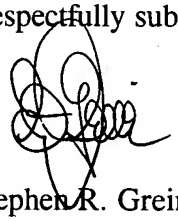
time to time and swapped with others to suit the style preferences of a wearer and to prolong the useful life of the link. It is respectfully submitted that Johnson does not teach this sort of thing.

Examiner states that the link of Johnson is made releasable by "chain links that are easily separated to remove or attach the link to or from the crossbar." Nowhere in the specification of Johnson, however, is this written. Furthermore, the chain links illustrated in Johnson's drawing figures appear to be unbroken, endless rings that are incapable of being detached from a crossbar (10 as specified by the Examiner in the first Office action or 21 in the second Office action) without heroic effort. Thus, it would appear that the only way to remove the link of Johnson would be by breaking or cutting it. In any event, the speculation of an Examiner is not a teaching of the prior art that can properly be employed in a claim rejection based on 35 U.S.C. § 102(b).

Accordingly, it is respectfully submitted that this application is in condition to be passed to issue with claims 1 and 2 as originally submitted. If such is not determined to be the case, however, the Examiner is respectfully requested to call the undersigned attorney at the number given below in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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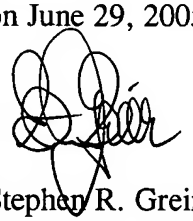

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